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Fourth special session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 September 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA, ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

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The meeting was called to order at 3.10 p.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the fourth special session of the Commission on Human Rights devoted to the situation in East Timor; she stressed its importance and expressed the hope that the standard of debate would reflect the seriousness of events in that territory. In particular, hoped that a common position on questions relating to human rights could emerge despite the procedural difficulties that had surrounded the convenin of the session.

2. Ms. ROBINSON (United Nations High Commissioner for Human Rights), briefly recapitulating the facts, said that on 30 August 1999 the Timorese population had, by an overwhelming majority, voted in favour of independenc for East Timor. When the result of the consultation had been announced, th anti-independence militias, with the participation of elements of the secur forces, had begun a campaign of terror against the Timorese population, international staff and journalists. Thousands of Timorese had been expell or had fled from the territory. Although the number of persons killed, separated from their families or deported and the extent of property destro were not yet known, available information clearly showed that gross human rights violations had been committed in East Timor, affecting its entire population. For further information, she invited participants to consult h report (E/CN.4/S-4/CRP.1). The following conclusions could be drawn from t report: there was overwhelming evidence that East Timor had seen a deliberate, vicious and systematic campaign of gross violations of human rights, an international commission of inquiry into the violations must be established so that those responsible could be brought to justice; immediat access must be ensured for aid agencies in order to get assistance to those dire need; secure conditions must be created for humanitarian aid workers; cooperation of the Government of Indonesia with the United Nations was vita to ensure effective protection of the fundamental rights of all people in East Timor during the period of transition to the full implementation of th agreements of 5 May 1999.

3. It was a widely accepted principle of contemporary international law practice that, wherever human rights were being grossly violated, the international community had a duty to do its utmost to protect those at ris to bring relief and assistance to those in need, to gather the facts with a view to throwing light on what had taken place, to bring those responsible justice, to make the perpetrators of gross violations accountable and to render justice to the victims. The Vienna Declaration and Programme of Act had reconfirmed that the promotion and protection of human rights was a legitimate concern of the international community.

4. When she had visited the region from 10 to 13 September to assess the situation at first hand and discuss with the authorities involved actions necessary to ensure protection of the fundamental rights of the population, she had been received in Jakarta by the Indonesian President, together with the Minister of Justice and the Chairman of the National Human Rights Commission. At that meeting she had expressed her deep concern about the human rights situation in East Timor and the numerous reports of collusion

between the Indonesian armed forces and the militias. President Habibie had asked the National Human Rights Commission to explore with her Office the possibility of establishing a commission of inquiry. In that connection, valuable cooperation in the area of human rights had been developed between the Indonesian Government and her Office. Mr. Xanana Gusmao, the leader of the East Timorese independence movement, had also stressed the need to ensure respect for human rights and had received assurances of the Office's support for the building of inclusive and democratic institutions in East Timor.

5. The immediate priority was for the human rights violations to stop and for the East Timorese people to return to their homes, a policy to which the Indonesian Government had committed itself. The international community, through the multinational force and the United Nations Mission in East Timor (UNAMET), must contribute to the restoration of peace and reconstruction. Her Office had prepared a number of technical-assistance and advisory-services projects, starting from the assumption that the dedication of the people of East Timor to freedom must be complemented with respect for human rights. The international community must be prepared to participate in the development of a legal framework for the promotion and protection of human rights, for example by creating a council for traditional law to ensure links between the new legislation and tradition. Assistance should also be offered to establish a national human rights commission for East Timor, in order to contribute to the integration of the human rights constituency. The establishment of a land property commission should also be assisted in order to prevent the inevitable property disputes from challenging social stability. It might also be necessary to initiate a national reconciliation process on the basis of the examples of other regions. The key to a peaceful and stable future for East Timor lay in developing a culture of human rights and tolerance. The cooperation of the Timorese population and the international community was essential in that respect. She would be listening carefully to the Commission's discussion in order to draw on it in formulating her Office's contribution to assistance for East Timor.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (E/CN.4/S-4/1 and Add.1)

6. Mr. PALIHAKKARA (Sri Lanka), speaking on behalf of the Asian Group, reaffirmed that the members of that Group had serious reservations about the way in which the Commission's special session had been convened, considering that the majority required for that purpose had not been achieved in accordance with the procedure set forth in Economic and Social Council decision 1993/286. The Asian Group had informed the secretariat that that procedure did not contain any provision for the holding of a second round of voting in order to achieve that majority. It also regretted the fact that it had not been consulted before the presentation of the official proposal for the convening of the session.

7. Those concerns about compliance with procedure could only erode confidence between member States and the United Nations machinery, and impair the cooperation essential for the effective promotion and protection of human rights. The situation was particularly regrettable since the Government concerned had already demonstrated its commitment to cooperation with the United Nations by accepting the presence of a peacekeeping force in

East Timor. The members of the Asian Group considered that no measures need to be taken against the views of the State concerned and the other States of the region. In any event, the purpose of any action by the United Nations system should be to contribute to the efforts of the Government and not exacerbate the situation. That required full transparency in the conduct of negotiations.

8. Mr. LEPATAN (Philippines), speaking on behalf of the Association of South-East Asian Nations (ASEAN), fully supported the Asian Group's statemen The Commission on Human Rights drew its legitimacy and credibility from the moral positions it adopted. As such, it must always exercise the highest degree of circumspection and obey the letter of its own rules. The manner i which the special session had been convened left much to be desired in terms of objectivity and transparency. It might even prove counter productive, given the evolving situation on the ground.

9. The Government of Indonesia had time and again demonstrated its commitment to the full implementation of the New York agreements of 5 May 1999. The close cooperation it extended to the international humanitarian agencies and the presence of the international force in East Timor bore witness to that fact. In that connection, it should be note that Security Council resolution 1264 (1999) establishing the international force covered a whole spectrum of issues, including peace and security in th transition period and beyond, humanitarian assistance, the concerns of the international community, the obligations of the Indonesian Government, and internally displaced persons. In those circumstances, it was not clear what else a special session of the Commission could achieve. Moreover, the issue of East Timor was on the agenda for the current session of the General Assembly. In view of the provisions of Article 12, paragraph 1, of the United Nations Charter and Economic and Social Council decision 1993/286, paragraph 3, not only the advisability but the legality of the special sessi could be challenged. The convening of the special session had damaged the trust between member States and the High Commissioner's Office. The outcom of the special session must concretely improve the situation on the ground. To that end, the negotiations must be conducted with full transparency and fairness.

10. Mr. WIRAJUDA (Indonesia) associated himself with the statements of the preceding speakers. The convening of the current session was defective for several reasons. First, it was contrary to the principles laid down in Article 12 of the United Nations Charter and paragraph 3 of Economic and Social Council decision 1993/286. Secondly, the required majority had not been met in terms of the procedure instituted by that decision, since only written affirmative responses had been received by the deadline. Thirdly, t second round of voting had amounted to a change in the existing rules of procedure. The lack of impartiality, transparency and objectivity on the pa of the High Commissioner's Office in that instance could do lasting damage t the trust which had with difficulty been created between the parties. Despi its strong reservations as to the validity of the current session and the manner in which it had been convened, his delegation wished to demonstrate, through its participation, the commitment of the Indonesian Government to cooperate fully with the United Nations human rights mechanisms dealing with the issue of East Timor.

11. Mr. AMAT FLORES (Cuba) said that his Government, while concerned about the appalling events in East Timor, was also concerned about the way in which the current session had been convened and the consequences of that situation. The only provisions regulating the convening of special sessions of the Commission were to be found in Economic and Social Council resolution 1990/48 and decision 1993/286. Paragraph 2 (b) and (c) of that decision precisely defined the time limits to be observed and did not lend themselves to a broad interpretation. From the legal standpoint, there was no doubt that the written replies should have reached the High Commissioner's Office by 6 p.m. on 16 September. In accordance with paragraph 2 (d) of the decision, it was the responsibility of the High Commissioner to communicate to member States the results of the action taken and the date of the opening of the session if the majority of those States had expressed a favourable opinion within the time limit, which had manifestly not been the case. It should also be pointed out that the opinion of the Organization's legal advisers had no binding force, especially when that opinion was contrary to the established procedures.

12. The United Nations was an intergovernmental organization in the service of States. Neither the Commission nor the secretariat had the authority to modify or infringe provisions laid down by the higher bodies to which they reported. How could the efficiency, legitimacy and credibility of an organization whose rules were amended or applied for reasons of convenience be maintained? How could observance of the resolutions and decisions it adopted be promoted if some of them were deemed to be more important than others? What interpretation could in the future be placed on the fundamental principles and norms governing the Organization? His delegation associated itself with the statements in favour of the restoration of the principles of impartiality, objectivity and non-selectivity which must inform the work of all United Nations bodies.

13. Mr. YISHENG (China) said that his delegation fully endorsed the statement made by the representative of Sri Lanka on behalf of the Asian Group. Only through adherence to the rules of procedure could the legality of the Commission's decisions be ensured. In that respect, the procedure to be followed for the organization of special sessions of the Commission had not been respected, and the session should therefore have never been convened. The violation of the rules of procedure could only have adverse consequences, which would be difficult to dispel. For its part, the secretariat must adhere scrupulously to the principles of objectivity, neutrality and transparency in the execution of its mandate. It did not have the right to take decisions on issues within the competence of States Members of the United Nations and must refrain from any attempt to influence sovereign States. The decisions to be taken by the international community on the question of East Timor must help to stabilize the situation. Since, at the request of the Indonesian Government, the Security Council had adopted a resolution authorizing the presence of a multinational peacekeeping force in East Timor, all the parties concerned must make joint efforts to achieve such stability.

14. Mr. RAMCHARAN (Deputy High Commissioner for Human Rights) said that Indonesia, as a founder member of the Non-Aligned Movement, occupied a special place within the United Nations. During all phases of the procedure that had

led to the convening of the current session, the High Commissioner's Office had always acted with impartiality and objectivity. All the information at its disposal and the opinion of the Office of Legal Affairs had been communicated to the bureau of the Commission and, through it, to Commission members. Moreover, the bureau had been constantly informed, with full transparency, of the principal measures envisaged by the High Commissioner's Office. In any event, all the provisions of Economic and Social Council resolution 1990/48 and decision 1993/286 had been complied with.

15. As to the response of the Government of Rwanda, he observed that that country had confirmed in writing the affirmative response it had given by telephone within the time limit. The Office of Legal Affairs had considered that the Rwandan response had been timely, an opinion which had been accepted by 28 member States. In conclusion, he assured members of the Commission of the crucial importance which the High Commissioner attached to the principles of impartiality, objectivity and neutrality.

16. Mr. AKAO (Japan) said that the pressure which the High Commissioner's Office had tried to exert on Japan in order to secure the support of the Asian Group belied Mr. Ramcharan's statements concerning the impartiality of that Office. By engaging in a constructive dialogue from the outset, the Office would have averted the regrettable confusion, for which it must be held responsible.

17. Mr. RAMCHARAN (Deputy High Commissioner for Human Rights) stressed that neither the High Commissioner nor he himself had participated in any inappropriate action. In a spirit of dialogue, he invited the representative of Japan to inform the High Commissioner's Office of any overzealousness on the part of a secretariat official. The Office would make a point of taking the necessary measures.

18. The CHAIRPERSON said that, if there was no objection, she would take it that the Commission wished to adopt the agenda for the special session.

19. It was so decided.

ORGANIZATION OF WORK (agenda item 2)

20. The CHAIRPERSON said that the bureau recommended inviting the United Nations High Commissioner for Refugees to make a statement during the session, limiting to 10 minutes the length of statements by members of the Commission, observers and representatives of NGOs and, with regard to the right of reply, authorizing two replies at most (5 minutes for the first and 3 minutes for the second). Lastly, special rapporteurs and members of other Commission mechanisms were free to attend the deliberations. If there was no objection, she would take it that the Commission endorsed those recommendations.

21. It was so decided.

LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA, ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (agenda item 3) (E/CN.4/S-4/2)

22. Mr. DA COSTA (Observer for Portugal) said that under the tripartite agreements of 5 May relating to procedures for the referendum in East Timor, Indonesia had assumed responsibility for security in that territory in order to allow the referendum to take place. Unfortunately, Indonesia had not complied with that obligation. Even before the consultation process had started, the militias, under the benevolent eye of members of the Indonesian armed forces and police, had conducted a campaign of terror and intimidation in order to prevent the ballot. Nevertheless, massive participation by the East Timorese had resulted in an overwhelming vote for independence. That result had immediately unleashed a systematic pattern of terror and violation of human rights, affecting the entire population. Some people had managed to escape to the mountains, where they were living in appalling conditions, while others had been forced to leave the territory and were confined to refugee camps.

23. The international community could not stay aloof from those barbaric events; for that reason, Portugal had called for the United Nations to address the situation. At last measures had been taken, and a tribute should be paid to the willingness of the Indonesian Government to accept the deployment of an international force in East Timor. It was important that the Office of the High Commissioner for Refugees should immediately take control of the camps in West Timor. In that connection, it was necessary to prevent militia members from gaining access to the deported and displaced Timorese, and to ensure urgently that United Nations agencies and NGOs had access to East Timorese in West Timor and elsewhere in Indonesia.

24. During the tragic events in East Timor, all human rights, including the right to life, had been systematically flouted and the humanitarian situation was catastrophic. It was therefore unacceptable to argue, as some did, that the Commission should ignore the issue because other United Nations bodies were already addressing it. The Commission had the duty to investigate those events, to analyse the roots of the violence, to protect the rights of the population and to prevent anything similar from taking place again in East Timor or elsewhere. There should be no impunity for those responsible for the violence, and the links between elements of the Indonesian armed forces and the militias required a thorough and impartial investigation. In that connection, his delegation welcomed President Habibie's public statement that those responsible for the violence must be brought to justice.

25. The European Union would submit to the Commission a draft resolution whose balanced text took account of the overall human rights situation and the future needs of the territory. The Timorese needed help in promoting and protecting human rights, creating institutions that would boost confidence among the population, and guaranteeing respect for the rule of law in an independent East Timor. He praised the untiring efforts of the High Commissioner for Human Rights to draw world attention to the plight of the Timorese. He expressed the hope that, after so many years of violence, a democratic, reconciled and tolerant East Timor would finally come into being.

26. Mr. WIRAJUDA (Indonesia) recalled that it was the strong and sincere determination of his Government that had led to momentous progress in efforts to find a just, comprehensive and internationally acceptable solution to the question of East Timor. On 27 January 1999, the Government had stated that, if the autonomy offer was rejected by the Timorese, it would allow East Timor to part from Indonesia in a peaceful and constitutional manner. That historic announcement had given fresh impetus to the tripartite negotiations, which had culminated in the signing, on 5 May 1999, of the New York agreements relating to the procedures for a popular consultation in East Timor. Despite sporadic incidents, all phases of the ballot had been completed smoothly, thanks notably to the security ensured by the Indonesian army and police.

27. His Government strongly deplored the violence which had erupted in East Timor in the aftermath of the announcement of the ballot result. Through lack of experience, the Indonesian police had been unable to deal with the violent reactions of pro-integration groups who had been angered by claims that there had been voting irregularities. Tens of thousands of residents of every political persuasion had become displaced persons. His Government had released financial and logistical resources to deal with that serious humanitarian situation and had cooperated fully with foreign Governments, international relief agencies and NGOs supplying assistance in East Timor. In that respect it welcomed the action of UNHCR.

28. Human rights violations had also been reported during the post-ballot period. Some had been overblown by the media and NGOs, but his Government was deeply concerned about the reports. In that connection, the Indonesian National Human Rights Commission had announced the establishment of a commission of inquiry to compile facts and evaluate reports of post-ballot human rights violations in East Timor, to take the necessary measures on the basis of its findings so that the perpetrators could be brought to justice, and to issue a final report and recommendations to his Government. President Habibie had immediately pledged his full support for the work of that commission, and the Indonesian delegation invited the international community to do likewise.

29. Regardless of the outcome of the special session, it was essential to refrain from any act that might hamper the process of reconciliation in East Timor. President Habibie had announced that the Government accepted the results of the ballot and pledged to proceed with the requisite constitutional measures in order to terminate Indonesia's link with East Timor, in accordance with article 6 of the New York agreement. It had also accepted the presence of INTERFET in East Timor. It would do all it could to ensure that the transfer of authority to the United Nations took place in a peaceful and orderly fashion, and that the civil, political, social, economic and cultural rights of all Timorese bar none were promoted and protected. In that connection, Indonesia hoped to receive the constructive support of the international community, since now was the time for cooperation, not looking for scapegoats.

30. Mr. AKAO (Japan) said that his Government had not opposed the holding of a special session on the human rights situation in East Timor but regretted that that decision had been taken without taking accoun' of the positive development of that situation through the action of the Security Council and,

above all, despite the unanimous opposition of the Asian States members of the Commission. Obviously, the procedure for convening a special session should not only comply with the rules of procedure, but should also be impartial and transparent. The attitude of the Office of the High Commissioner for Human Rights in that matter had greatly damaged the confidence which all Asian countries had had in it. His Government categorically rejected what was stated about Japan in a letter dated 20 September 1999 addressed to the Ambassador of Indonesia by the High Commissioner. Those allegations were inaccurate, misleading and unacceptable. His Government strongly hoped that similar procedural entanglements would be avoided in the future and that the present confusion would not affect the operation of the Commission or prevent substantive discussions on the question of East Timor.

31. His Government strongly deplored the fact that the situation in East Timor had deteriorated. After the overwhelming vote in favour of independence, many violations had been committed by members of the pro-integration militias, in some cases with assistance from the Indonesian military. His Government had decided, on 16 September, to contribute US$ 2 million to humanitarian assistance efforts in East Timor and had dispatched a mission to the region to coordinate its action with that of the international agencies and other countries concerned. It would also make a contribution to the multinational force which, it was to be hoped, would restore security in the region on the basis of Security Council resolution 1264 (1999), in conjunction with the Indonesian Government and armed forces. His Government also welcomed the decision of the Indonesian Government to set up a commission of inquiry into violations of human rights in East Timor. The Commission on Human Rights must encourage it to take other measures to that end, and not condemn it. It was important to bear in mind that the special session should not impair the activities of the Security Council, but enhance them.

32. Mr. HUHTANIEMI (Finland), speaking on behalf of the European Union and the associated countries of Central and Eastern Europe, and also Cyprus and Malta, recalled that the European Union had welcomed the organization and holding of the referendum in East Timor, the first step in the political process that would enable the Timorese to exercise their right of self-determination. It would continue to support the work of the Secretary-General and UNAMET in pursuing the consultation process towards the independence of the territory in accordance with the May 5 agreements. It condemned with the utmost vigour the atrocities committed in East Timor following the referendum and recalled that the Indonesian Government, in accordance with Security Council resolution 1264 (1999), was primarily responsible for the maintenance of peace and security in the region. The international community could not remain indifferent to violations on such a scale. For that reason, the European Union supported the establishment of an international commission of inquiry to gather information on any acts which might constitute breaches of international humanitarian law in East Timor since the January 1999 announcement of the referendum. The commission of inquiry should transmit its conclusions to the Secretary-General in order to enable him to make recommendations on future action. Impunity for atrocities must not be tolerated; the international community must do its utmost to ensure that all perpetrators of violations were brought to justice. In addition, the European Union urged the Commission's special rapporteurs on

extrajudicial, summary and arbitrary executions, on torture and on violence against women, the Special Representative of the Secretary-General on internally displaced persons and the Working Group on Enforced or Involuntary Disappearances to carry out missions in East Timor and report to the Commission at its fifty-sixth session and, on an interim basis, to the General Assembly at its fifty-fourth session.

33. The European Union welcomed the progress in the deployment of the international force in East Timor, and the efforts to protect the civilian population and provide it with rapid humanitarian assistance. It reiterated its earlier appeals for immediate, safe and unconditional access for international humanitarian organizations to both East and West Timor. In that connection, it condemned the attacks on humanitarian personnel, church members, journalists and human rights defenders. It was concerned at reports of numerous forced removals of persons to other parts of Indonesia. In that context, it commended the cooperation of the Indonesian Government with INTERFET. It expected follow-up on the assurances given by the Indonesian Government to the United Nations High Commissioner for Refugees concerning the security of UNHCR personnel and free access to displaced persons, in particular in West Timor.

34. The European Union would continue to support the work of the United Nations to ensure implementation of the results of the referendum. There was a clear need for technical assistance in the field of human rights to be included in all national and international reconstruction efforts.

35. Mr. LEWALTER (Germany) said that his delegation shared the concern expressed by Finland on behalf of the European Union about the tragic events which had occurred in East Timor. It welcomed the adoption by the Security Council of resolution 1264 (1999) authorizing the deployment of a multinational force to restore order in the region and to pave the way for a peaceful and lasting solution of the East Timor question based on the right of the Timorese to self-determination. His delegation was convinced that the Commission's special session constituted a useful complement to that resolution. The credibility of the United Nations in the field of human rights also required action by the Commission.

36. It was apparent from the report of the High Commissioner for Human Rights on her mission to the region that massive, systematic and gross violations had been deliberately committed by the militias and elements of the security forces. That campaign of terror had led to the massive displacement of practically the whole population of East Timor. It was therefore essential that an international commission should be set up to investigate cases of human rights violations and breaches of international humanitarian law, and that all those who had planned, authorized and executed the campaign of deportation and murder be brought to justice. All the Commission's human rights protection mechanisms must also be brought into play. His delegation called upon the Indonesian authorities to take effective measures to put an end to those violations and to fully abide by the agreements of 5 May 1999, in particular the freely expressed wishes of the East Timorese people on the political future of their territory in the referendum of 30 August 1999. It was also important that all humanitarian organizations, including UNHCR, should have free access to all refugees and displaced people so as to provide

them with the necessary assistance and that measures be taken to guarantee their safe return to East Timor. Lastly, the international community must provide assistance in reconstruction of the region; his country stood ready to take part in those efforts.

37. Mr. LABBE (Chile) said that his Government had considered it necessary for the Commission to meet in special session, since it had an obligation to react to the serious and tragic events in East Timor. His Government earnestly hoped that that session would lead to the adoption of a decision, resolution or declaration by consensus, which would give it greater political and moral weight and might have a considerable impact on the ground. It was essential that the Commission should contribute, in its field of competence, to the consolidation of peace and stability in that important region of the world.

38. His Government appreciated the efforts made by the Government of President Habibie, who had expressed his readiness to cooperate with the international community in order to ensure that the peace process was completed and that those guilty of crimes were brought to justice. It was to be hoped that the Commission would recognize the goodwill shown, and positive measures taken, by Indonesia, with which Chile maintained excellent diplomatic relations. For its part, Chile would play an active part in future efforts to ensure that the Commission reached a consensus.

39. Mr. NENE (South Africa) said experience had shown that the Commission on Human Rights could not remain silent when systematic human rights violations were being committed in any part of the world; it was therefore appropriate for it to intervene in situations such as that which currently existed in East Timor. The inhabitants of that territory, who had unanimously voted for independence, had become the target of a heinous campaign of terror on the part of the pro-integration militias. Thousands of people had been displaced and were now deprived of food and other basic necessities.

40. Clearly, the members of the Commission, in their collective wisdom, must do everything possible to bring about an immediate end to the violence, and secondly, the perpetrators of those appalling acts must not go unpunished. The Secretary-General of the United Nations must therefore take appropriate measures, in conjunction with the Indonesian Government, to ensure that the guilty were brought to justice. The South African delegation welcomed the Security Council decision to deploy a peacekeeping force in East Timor with the agreement of the Indonesian Government, and the recent commitment by the Government to cooperate fully with the international mechanisms and to take measures to address the situation. In accordance with its obligations under the 5 May agreements, the Government must play a part in promoting tolerance, lasting peace and stability during the transition to independence in East Timor. For its part, the international community must continue to assist it in that task.

41. In conclusion, he commended the urgency with which the international community had reacted to the situation in East Timor and hoped that it would continue to do likewise in the future. The Commission should draw lessons from that and devise preventive strategies.

42. Mr. WESTDAL (Canada) considered that the holding of the special session of the Commission was consistent with its mandate. The Commission had a duty to deal with grave human rights emergencies, such as that in East Timor, which had appalled the international community. It was apparent from the report of the High Commissioner for Human Rights that that region had been the scene of a deliberate and systematic campaign of flagrant human rights violations orchestrated by pro-integration militias with the apparent support and assistance of certain elements of the Indonesian army and police. According to the Indonesian Government, over 350,000 people had been displaced but, in the opinion of the International Committee of the Red Cross, the total might be much higher. Many forced disappearances had also been reported to the High Commissioner's Office, as well as sexual violence against women, even in the camps in West Timor. His delegation endorsed the High Commissioner's determination that the truth should be brought to light and those responsible brought to justice. In that connection it welcomed President Habibie's announcement of the setting-up of a commission of inquiry, but considered that the Commission on Human Rights should appoint a special rapporteur to investigate and report on human rights violations in East and West Timor. The Commission should also urge the Secretary-General of the United Nations to set up an international commission of inquiry. It would also be useful if the Commission's thematic rapporteurs, who had already reported human rights violations in East Timor, could undertake a joint mission in the region headed by the special rapporteur appointed by the Commission. His delegation supported an increase in technical cooperation with the Indonesian Government to reinforce human rights values and promote reconciliation in the region.

43. The Commission must do everything possible to prevent a recurrence of events such as those in East Timor; Canada stood ready to assist it in that task.

44. Mr. PADILLA MENÉNDEZ (Guatemala) observed that all States were composed of a territory, a population and a Government. When a State acceded to independence, it became sovereign and a subject of international law. But sovereignty did not only confer on Governments the right to take their decisions freely without outside interference; it also comprised obligations in that Governments had the duty to protect the territorial integrity of their country and the human rights of its inhabitants. If they did not fulfil that obligation, they not only endangered the security of the State and in some cases international peace and security as well, but also, to the extent that the provisions of international human rights law or international humanitarian law were violated, they rendered themselves liable to intervention and eventually sanctions by the international community.

45. The current situation in East Timor made it essential to adopt measures for the investigation of what had actually happened, to identify the direct or indirect perpetrators of the human rights violations that had been committed and to determine responsibility. It was therefore essential that a detailed report on the question should be submitted to the Commission at its fifty-sixth session. That report could be prepared either by a special rapporteur on East Timor or by an international commission of inquiry as the High Commissioner had proposed. Use should also be made of the Commission's

thematic rapporteurs, who could usefully supplement the general report by submitting information on the situation in East Timor from a more "specialized" standpoint in the light of their sphere of competence.

46. His delegation stressed the need to adopt minimum measures in order to allay the tensions existing in other regions of the world, to prevent conflicts, and to strengthen and reinforce international peace and security.

47. Ms. KUNADI (India) fully endorsed the statement made by the representative of Sri Lanka on behalf of the Asian Group concerning the procedure for convening the special session of the Commission.

48. India was firmly committed to the promotion and protection of human rights, and to the enhancement of international cooperation on the basis of dialogue to that end. It considered that the Commission and the Office of the High Commissioner for Human Rights constituted the two key pillars of the international edifice for the protection of human rights, and that any initiatives liable to cast a shadow over their credibility and impartiality must be avoided at all costs.

49. Her Government was deeply concerned at the violence that had followed the referendum in East Timor. It should not be forgotten that that referendum had been made possible by the cooperation of Indonesia, which had also undertaken to bring the situation in East Timor under control. Her Government therefore had serious doubts about the usefulness of a special session of the Commission on the question, particularly in the light of the recent developments in the situation following initiatives by the Security Council. Any action by the Commission at the current stage might therefore be fruitless, if not counter-productive, and further complicate an already difficult and complex situation. Her Government hoped that the Commission would await the outcome of the decisions taken by the Security Council with the cooperation of the Indonesian Government. Any action contrary to that basic requirement would be unacceptable.

50. Mr. AMAT FLORES (Cuba) said that ever since the first serious incidents had occurred in East Timor, his delegation had advocated urgent measures to end the violence. Despite the welcome reaffirmation by the Indonesian Government of its determination to abide by the tripartite agreements of 5 May, it was essential to deploy an international peacekeeping force under the strict control of the United Nations and without any hegemonistic designs by regional Powers or groups of Powers from outside the region. Subject to fulfilment of those conditions, Cuba was ready to participate in such a force by sending a medical assistance unit for military personnel and civilians. It was also willing to send, on the expiry of the mission's mandate, civilian medical teams who would remain in East Timor for as long as they were needed.

51. He stressed the need to respect the results of the referendum and thus enable the people of Timor to accede to independence. Apart from the measures it had already adopted for the restoration of order, the international community must provide urgent material assistance to meet the basic needs of the displaced persons, while at the same time creating the necessary conditions to enable them to return to their homes as soon as possible and in complete safety. It must display the necessary wisdom to avoid taking any

initiative that might impede the reconciliation of all Timorese. Once the situation in East Timor had returned to normal, it would be for the Timorese themselves, in accordance with the United Nations Charter and international law, to choose, without outside interference, the modalities of their political organization and their economic, social and cultural development, and to decide on the type of bilateral, regional or international cooperation East Timor might need.

52. Mr. Man-Soon CHANG (Republic of Korea) said that, in view of the serious events in East Timor following the referendum, the Security Council had rightly given priority to the restoration of peace and security in the territory and authorized the deployment of a multinational force there, in order to ensure that the refugees received the assistance they needed. At the invitation of the Council and the Indonesian Government, the Republic of Korea had decided to participate in that mission.

53. The holding of the special session provided an opportunity to focus on the role which the United Nations system in general and the Commission on Human Rights in particular should play in East Timor. First, the Commission must define common goals: restoration of peace and security, humanitarian assistance to the Timorese, setting-up of a plan for the return of the refugees, rebuilding and reconciliation, investigation of human rights violations. Secondly, in order to achieve those goals, the international community must mobilize under the leadership of the United Nations, whose agencies should closely coordinate their activities. Thirdly, the Commission should take measures to stop the further suffering of citizens and prevent the recurrence of the human rights violations. Its activities would depend on the restoration of peace. Fourthly, the Commission should not be a forum for criticism, but should discuss the constructive role it could play in the achievement of those goals in East Timor.

54. Mr. CHOWDHURY (Bangladesh) supported the statement made by the representative of Sri Lanka on behalf of the Asian Group. He again stressed that any action that duplicated the efforts of other United Nations bodies or agencies might prove counter-productive. His country would associate itself with any international action aimed at helping Indonesia to prevent further violations of human rights in East Timor, ending the suffering of the Timorese population, bringing relief to the victims, facilitating the return of displaced persons to their homes and punishing the guilty. Lastly, the Commission should refrain from taking any decision that impeded the positive commitment of the Government of Indonesia.

55. Ms. JANJUA (Pakistan) also associated herself with the statement made by the representative of Sri Lanka on behalf of the Asian Group. Her delegation welcomed the determination of the Indonesian Government to ensure the security of the Timorese and to abide by its commitments following a historic referendum. She recalled that, in accordance with Article 12 of the Charter of the United Nations, the General Assembly must not make any recommendation on a situation with which the Security Council was seized. In her opinion, that applied to the Commission on Human Rights in equal measure. Any decision by the Commission might aggravate, instead of improve, the political and human rights situation in East Timor and complicate the task of the Indonesian authorities.

56. The manner in which the special session had been convened, which could erode the Commission's credibility, gave the impression that not all situations were treated equally. It was disturbing to note that the current session was being held at a time when Indonesia had accepted the right of the Timorese to self-determination, had organized a free and fair referendum under United Nations auspices, had accepted the results of the ballot, had reaffirmed its commitment to uphold the rule of law and had demonstrated its willingness to do so by accepting the deployment of a peacekeeping force. If there was one issue which did warrant a special session of the Commission, it was the situation in the part of Kashmir occupied by India, which had not lived up to its commitments. Gross and systematic human rights violations were occurring every day in that territory.

57. Mr. AMORIM (Observer for Brazil) said that the extent of the human rights violations committed in East Timor justified the holding of a special session of the Commission. Brazil had been shocked by the massacres which had followed the referendum and which raised questions about the will of the Indonesian authorities to ensure the security of the Timorese. He welcomed the fact that the Indonesian Government, with which his Government had always maintained a constructive dialogue, had reiterated its commitment to cooperate. He was convinced that the presence of the multinational force authorized by the Security Council, in which civilian police officers from Brazil were participating, would help to restore stability.

58. Although it was the responsibility of the Security Council to maintain international peace and security, the Commission could not shirk its responsibilities. It must help not only to bring the perpetrators of violations to justice, but also to ensure respect for the rights of the Timorese, aid workers and United Nations personnel in the context of the economic reconstruction and development of East Timor. It must cooperate with UNHCR in order to assist the numerous displaced persons. Now that the Timorese had expressed their will, the Commission had the right and duty to ensure that the future State of East Timor developed in a harmonious manner with due respect for fundamental rights and human dignity.

59. Monsignor BERTELLO (Observer for the Holy See) said that the Holy See had welcomed the convening of a special session of the Commission on Human Rights to consider the serious violations committed in East Timor. Those violations were of particular significance since they had been aimed at crushing in bloody fashion the majority will of a people expressed through a ballot organized and supervised by the highest international body. When the violence of the anti-independence militias had broken out, the Holy See, which had welcomed the agreements of 5 May, had pressed for the Security Council to authorize the deployment of an international force in East Timor in order to halt the massacres and restore a minimum of order and security. Now that the international force was in place, there was an urgent need for humanitarian aid to rapidly reach the displaced persons and refugees. The international community must also ensure their protection and return in conditions of safety and freedom. Furthermore, as the High Commissioner for Human Rights had emphasized, the establishment of an international commission of inquiry was a priority matter in order to shed full light on events and assess the responsibilities of those who had perpetrated violations. The dialogue and reconciliation which the Church had always advocated could not be firmly based

without the calm and impartial search for justice and truth. The Holy See was convinced that the multinational force established by the United Nations would be able to perform the task entrusted to it without great difficulty, and that the international community would be able to accompany the transition process to its completion and grant massive aid for the reconstruction of East Timor.

Statements in exercise of the right of reply

60. Mr. PRASAD (India) said it was regrettable that Pakistan had once again been unable to avoid expressing its territorial claims to the State of Jammu and Kashmir, which formed an integral part of India, under the guise of adherence to major principles such as the right of self-determination. That right applied to non-autonomous or trusteeship territories and could not call in question the territorial integrity of independent and sovereign States. The inhabitants of the State of Jammu and Kashmir enjoyed all their fundamental and democratic rights, unlike the inhabitants of the part of Kashmir illegally occupied by Pakistan. He called on Pakistan to end the violence and terrorist acts which it was perpetrating in Kashmir and to refrain from making unjustified comparisons between the situation in Kashmir and that in East Timor.

61. Ms. JANJUA (Pakistan) replied that the inhabitants of Kashmir were striving, like the Timorese, to exercise their inalienable right to self-determination. Indian-held Kashmir was a contested territory and recognized as such by the United Nations. The massive violations of human rights that were committed there would justify the holding of a special session of the Commission.

The meeting rose at 6.05 p.m.